

THE TAXPAYER SUBMITTED A LETTER ON APRIL 5, 1995, WAIVING ITS FORMAL APPEARANCE AT HEARING AND STATING THEY WERE SUBMITTING THE CASE TO THE ADMINISTRATIVE LAW JUDGE UPON THEIR PREVIOUSLY SUBMITTED DOCUMENTS.

AFTER REVIEWING THIS MATTER, I RECOMMEND THE ISSUE BE RESOLVED PARTLY IN FAVOR OF THE TAXPAYER AND PARTLY IN FAVOR OF THE DEPARTMENT.

FINDINGS OF FACT

1. TAXPAYER CONDUCTED BUSINESS OPERATIONS IN ILLINOIS DURING THE AUDIT PERIOD BY SERVICING OIL FIELD EQUIPMENT. (DEPT. EX. NO. 3)

2. PURSUANT TO STATUTORY AUTHORITY, THE AUDITOR DID CAUSE TO BE ISSUED A CORRECTION OF RETURNS OR DETERMINATION OF TAX DUE AND THIS SERVED AS THE BASIS FOR NOTICE OF TAX LIABILITY (NTL) XXXXX ISSUED NOVEMBER 22, 1993 FOR \$5,037, INCLUSIVE OF TAX, PENALTY AND INTEREST. (DEPT. EX. NOS. 2 AND 4)

3. TAXPAYER SUBMITTED COPIES OF INVOICES SHOWING THAT THE USAGE OF THE BACKHOE IS FOR THE MOVEMENT OF EARTH AND OTHER MATERIAL AT OIL DRILLING SITE LOCATIONS. (TAXPAYER GRP. EX. NO. 1)

CONCLUSIONS OF LAW

CERTAIN ITEMS ASSESSED BY THE DEPARTMENT CANNOT QUALIFY FOR THE EXEMPTION AFFORDED OIL FIELD EXPLORATION, DRILLING, AND PRODUCTION EQUIPMENT BECAUSE THE STATUTORY AND REGULATORY PROVISIONS DO NOT GRANT THIS EXEMPTION FOR MOTOR VEHICLES REQUIRED TO BE REGISTERED PURSUANT TO THE ILLINOIS VEHICLE CODE. SEE 86 ADMIN. CODE CH. I, SEC. 130.345(A). THIS MEANS THE CHEVROLET CAB AND CHASSIS DO NOT QUALIFY AS THE AUDITOR IN HIS REPORT DATED SEPTEMBER 9, 1993, DOCUMENTED THAT THE TRUCK AND CHASSIS ARE TITLED, LICENSED, AND REGISTERED FOR HIGHWAY USE. (DEPT. EX. NO. 3)

THE DOCUMENTATION SUBMITTED BY TAXPAYER CONSISTS OF INVOICES THAT SHOW THE BACKHOE IS USED TO DIG DRILLING AND WASTE PITS AT OIL PRODUCTION LOCATIONS. BASED UPON THIS DOCUMENTATION, I FIND THE BACKHOE QUALIFIES FOR THE EXEMPTION, AND I RECOMMEND THE TAX ATTRIBUTABLE TO THIS ITEM BE DELETED FROM THE FINAL ASSESSMENT.

WHILE IT IS NOT CLEAR FROM THE RECORD IF THE TRAILER AT ISSUE IS TITLED WITH THE STATE, BECAUSE TAXPAYER HAS SUBMITTED NO DOCUMENTS ON THIS ITEM I FIND ITS TAX SHOULD REMAIN IN THE FINAL ASSESSMENT.

IN SUMMARY, I FIND THAT WITH THE EXCEPTION OF THE TAX ON THE BACKHOE, THE NTL SHOULD STAND AS ISSUED.

RECOMMENDATION

BASED UPON MY FINDINGS AND CONCLUSIONS AS STATED ABOVE, I RECOMMEND THE DEPARTMENT REDUCE NTL XXXXX AND ISSUE A FINAL ASSESSMENT.

KARL W. BETZ,
ADMINISTRATIVE LAW JUDGE